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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/648,622	08/25/2003	Jon Claude Russell Bennett	D03056 03	4358

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Motorola, Inc.
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EXAMINER
HAN, CLEMENCE S

ART UNIT	PAPER NUMBER
2416	

NOTIFICATION DATE	DELIVERY MODE
02/20/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

Docketing.US@motorola.com

Office Action Summary	Application No.	Applicant(s)
	10/648,622	BENNETT, JON CLAUDE RUSSELL
	Examiner	Art Unit
	CLEMENCE HAN	2416

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on <u>05 November 2008</u>.

2a) ☐ This action is **FINAL**.   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) <u>1-41</u> is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) ☒ Claim(s) <u>18-37,40 and 41</u> is/are allowed.

6) ☒ Claim(s) <u>1-3,6,10,14,38 and 39</u> is/are rejected.

7) ☒ Claim(s) <u>4,5,7-9,11-13 and 15-17</u> is/are objected to.

8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All   b)☐ Some * c)☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. _____.

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1.   Claim 10 is objected to because of the following informalities: "receiving, by a

second remote network device" in line 6 should be replaced with "receiving, by a first

remote network device", see the deleted preamble in claim 10. Appropriate correction is

required.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

3.   Claim 1-3, 6, 10, 14, 38 and 39 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Moriarty (US Pub.2002/0161755) in view of McGregor (IPMP draft-

mcgregor-ipmp-00.txt).

        Regarding claim 1 and 38, Moriarty teaches a method for performing a remote test

of a link between a first remote network device and a second remote network device by a

measurement host comprising: transmitting (step 42 in Figure 4) from the measurement

host (Sender 1 in Figure 1) to the first remote network device (Border device 3 in Figure

1) an performance measurement packet requesting a measurement test of the link

between the first remote network device (Border device 3 in Figure 1) and the second

remote network device (Recipient 2 in Figure 1), wherein the measurement host (Sender

1 in Figure 1) is remote from both the first remote network device (Border device 3 in

Figure 1) and the second remote network device (Recipient 2 in Figure 1); receiving by

the first remote network device said performance measurement test request packet (step

44 in Figure 4); and performing a measurement test of the link between the first remote

network device and the second remote network device (step SS5 in Figure 4 and step 16

in Figure 3). Moriarty, however, does not teach the performance measurement packet as

Internet Protocol Measurement Protocol (IPMP) packet. McGregor teaches the

performance measurement packet as IPMP packet. It would have been obvious to one

skilled in the art to modify Moriarty to use IPMP packet to measure performance as

taught by McGregor in order to avoid denial of service attack (page 1 Abstract section

third paragraph).

Regarding claim 2, Moriarty teaches sending (step SS5 in Figure 4) an

performance measurement packet 20 to the second remote network device (Recipient 2 in

Figure 1)by the first remote network device (Border device 3 in Figure 1).

Regarding claim 3, Moriarty teaches sending a result of the measurement test

(response packet 24) to the measurement host (Sender 1 in Figure 1) from the first remote

network device.

Regarding claim 6, Moriarty teaches constructing (Step SS5 in Figure 4) a

performance measurement packet for the second remote network device (Recipient 2 in

Figure 1).

Regarding claim 10 and 39, Moriarty teaches a method for processing an

performance measurement reply packet (Response Packet 24 in Figure 2), said method

comprising: receiving, by a first remote network device (Border device 3 in Figure 1), the

performance measurement reply packet resulting from an performance measurement

packet sent (step SS5 in Figure 4) by a first remote network device (Border device 3 in

Figure 1) to the second remote network device (Recipient 2 in Figure 1) in response to an

performance measurement packet 20 previously received by the first remote network

device and sent from a measurement host (Sender 1 in Figure 1), wherein the

measurement host is remote from both the first remote network device and the second

remote network device; receiving said performance measurement reply packet (step 18 in

Figure 3); and forwarding (step 18 in Figure 3) information included in the performance

measurement reply packet to the measurement host (Sender 1 Figure 1). Moriarty,

however, does not teach the performance measurement packet as Internet Protocol

Measurement Protocol (IPMP) packet. McGregor teaches the performance measurement

packet as IPMP packet. It would have been obvious to one skilled in the art to modify

Moriarty to use IPMP packet to measure performance as taught by McGregor in order to

avoid denial of service attack (page 1 Abstract section third paragraph).

Regarding claim 14, Moriarty teaches creating a performance measurement

redirect reply packet (Border device 3 receives reply packet from Recipient 2 and redirect

it to Sender 1, see [0027] and [0045]).

Allowable Subject Matter

4.   Claim 18-37, 40 and 41 are allowed.

5.   Claim 4, 5, 7-9, 11-13 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

6.   Applicant's arguments with respect to claim 1-41 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CLEMENCE HAN whose telephone number is (571)272-3158. The examiner can normally be reached on Monday-Friday 8-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on (571) 272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published

applications may be obtained from either Private PAIR or Public PAIR. Status

information for unpublished applications is available through Private PAIR only. For

more information about the PAIR system, see http://pair-direct.uspto.gov. Should you

have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO

Customer Service Representative or access to the automated information system, call

800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/   /C. H./
Supervisory Patent Examiner, Art Unit 2416   Examiner, Art Unit 2416